

EDUCATION BUDGET RESERVE ACCOUNT

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

This act modifies the State System of Public Education code, the Budgetary Procedures Act, and the State Appropriations and Tax Limitation Act by creating the Education Budget Reserve Account. This act requires surplus monies in the Uniform School Fund at the end of a fiscal year to be deposited into the Education Budget Reserve Account and specifies how money in the Education Budget Reserve Account may be used. This act excludes transfers into or appropriations from the Education Budget Reserve Account from the definition of "appropriations" for the purpose of a limit on state appropriations. This act takes effect July 1, 2002.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-17a-144, as last amended by Chapter 6, Laws of Utah 1996, Second Special Session

63-38c-103 (Effective 07/01/02), as last amended by Chapter 332, Laws of Utah 2000

ENACTS:

63-38-2.6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-17a-144** is amended to read:

**53A-17a-144. Contribution of state to cost of minimum school program --
Determination of amounts -- Levy on taxable property -- Disbursal -- Deficiency.**

(1) The state's contribution to the total cost of the minimum school program is determined and distributed as ~~[follows:]~~ provided in this section.

~~[(1)]~~ (2) (a) Prior to June 16 of each year, the State Board of Education shall determine the estimated total cost of the minimum school program for each school district for the next school year.



[~~(a)~~] (b) The board shall certify this cost to the State Tax Commission, the Division of Finance, and the state auditor.

[~~(b)~~] (c) The certified report shall include the estimated number of units, the cost of the minimum program for each district as determined with the district, and the amount of any deficiency in the state's contribution to the minimum school program for the current and the preceding years.

[~~(2)~~] (3) (a) The State Tax Commission shall levy an amount determined by the Legislature on all taxable property of the state.

[~~(a)~~] (b) This amount, together with other funds provided by law, is the state's contribution to the minimum school program.

[~~(b)~~] (c) The statewide levy is set at zero until changed by the Legislature.

[~~(3)~~] (4) During the first week in November, the State Tax Commission shall certify to the State Board of Education the amounts designated as state aid for each district under Section 59-2-902.

[~~(4)~~] (5) (a) The actual amounts computed under Section 59-2-902 are the state's contribution to the minimum school program of each district.

(b) The state board shall provide each district with a statement of the amount of state aid.

[~~(5)~~] (6) (a) Prior to the first day of each month, the state treasurer and the Division of Finance, with the approval of the State Board of Education, shall disburse 1/12 of the state's contribution to the cost of the minimum school program to each school district.

[~~(a)~~] (b) A disbursement may not be made to a district whose payments have been interrupted under Subsection [~~(5)~~]~~(d)~~] (6)(e).

[~~(b)~~] (c) Discrepancies between the monthly disbursements and the actual cost of the program shall be adjusted in the final settlement under Subsection [~~(6)~~] (7).

[~~(c)~~] (d) If the monthly distributions overdraw the money in the Uniform School Fund, the Division of Finance is authorized to run this fund in a deficit position.

[~~(d)~~] (e) (i) The state board may interrupt disbursements to a district if, in the judgment of the board, the district:

(A) is failing to comply with the minimum school program[;];

(B) is operating programs that are not approved by the state board[;]; or

(C) has not submitted reports required by law or the state board.

[~~(i)~~] (ii) Disbursements shall be resumed upon request of the state board.

[~~(ii)~~] (iii) Back disbursements shall be included in the next regular disbursement, and the amount disbursed certified to the State Division of Finance and state treasurer by the state board.

[~~(e)~~] (f) The State Board of Education may authorize exceptions to the 1/12 per month disbursement formula for grant funds if the board determines that a different disbursement formula would better serve the purposes of the grant.

[~~(6)~~] (7) (a) If monies in the Uniform School Fund are insufficient to meet the state's contribution to the minimum school program as appropriated, the amount of the deficiency [~~thus~~] created shall be carried as a deficiency in the Uniform School Fund until the next session of the Legislature, at which time the Legislature shall appropriate funds to cover the deficiency.

(b) If there is an operating deficit in public education Uniform School Fund appropriations, the Legislature shall eliminate the deficit by:

(i) budget transfers or other legal means;

(ii) appropriating money from the Education Budget Reserve Account created in Section 63-38-2.6;

[~~(ii)~~] (iii) appropriating up to 25% of the balance in the [~~Budgetary~~] Budget Reserve Account created in Section 63-38-2.5; or

[~~(iii)~~] (iv) some combination of Subsections (7)(b)(i) [~~and (ii)~~] through (7)(b)(iii).

(c) Nothing in Subsection (7)(b) precludes the Legislature from appropriating more than 25% of the balance in the [~~Budgetary~~] Budget Reserve Account created in Section 63-38-2.5 to fund operating deficits in public education appropriations.

Section 2. Section **63-38-2.6** is enacted to read:

63-38-2.6. Education Budget Reserve Account created -- Use of account monies -- Interest -- Nonlapsing.

(1) There is created within the Uniform School Fund a restricted account known as the Education Budget Reserve Account.

(2) (a) Beginning June 30, 2003, at the end of any fiscal year in which the Division of Finance, in conjunction with the completion of the annual audit by the state auditor, determines there is a Uniform School Fund surplus, 25% of the surplus shall be transferred to the Education Budget Reserve Account.

(b) The amount to be transferred to the Education Budget Reserve Account shall be

determined before the deduction of any other contingency appropriation using surplus monies in the Uniform School Fund.

(3) The Legislature may appropriate money from the Education Budget Reserve Account to cover:

(a) operating deficits or projected deficits in the Uniform School Fund;

(b) a deficiency in the Uniform School Fund at the end of a fiscal year; or

(c) retroactive tax refunds.

(4) All interest earned on monies in the Education Budget Reserve Account shall be deposited into the account.

(5) Appropriations to the account are nonlapsing.

Section 3. Section **63-38c-103 (Effective 07/01/02)** is amended to read:

63-38c-103 (Effective 07/01/02). Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund, Uniform School Fund, and Transportation Fund sources as presented in the governor's executive budgets.

(b) "Appropriation" includes appropriations that are contingent upon available surpluses in the General Fund, Uniform School Fund, or Transportation Fund.

(c) "Appropriation" includes appropriations made to the Centennial Highway Fund from unrestricted General Fund and Transportation Fund revenues.

(d) "Appropriations" does not mean:

(i) debt service expenditures;

(ii) emergency expenditures;

(iii) expenditures from all other fund or subfund sources presented in the executive budgets;

(iv) transfers into, or appropriations made to, the ~~Budgetary~~ Budget Reserve Account established in Section 63-38-2.5 or Education Budget Reserve Account established in Section 63-38-2.6;

(v) monies appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104; or

(vi) appropriations made to the Centennial Highway Fund from sources other than the

unrestricted General Fund and Transportation Fund revenues created by Section 72-2-118.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt monies, less \$55 million appropriated for flooding and less \$14.2 million appropriated for capital projects in Section 3 of Chapter 265, Laws of Utah 1985 General Session, by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special Session.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from general, uniform school, and transportation fund sources, less debt monies, less \$55 million appropriated for flooding, and less \$14.2 million appropriated for capital projects in Section 3, Chapter 265, Laws of Utah 1985.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's personal income" means the fiscal year personal income two fiscal years previous to the fiscal year for which the maximum allowable personal income appropriations limit is being computed under this chapter.

(11) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(12) "Personal income" means the total personal income of the state as calculated by the Office of Planning and Budget according to the procedures and requirements of Section 63-38c-202.

(13) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Office of Planning and Budget according to the procedures and requirements of Section 63-38c-202.

(14) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund, Uniform School Fund, and Transportation Fund, except as specifically exempted by this chapter.

(15) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 4. Effective date.

This act takes effect on July 1, 2002.

Legislative Review Note
as of 1-28-02 12:16 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel